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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,689	03/22/2004	Paul Spivak	31399.25504	8762

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EXAMINER

TADESSE, YEWEBDAR T

ART UNIT	PAPER NUMBER
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1734

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/805,689

Applicant(s)

SPIVAK ET AL.

Examiner

Yewebdar T. Tadesse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 11-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>01/19/2005</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. Claims 11-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 01/12/2007.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 9, the phrase "when the spraying device is engaged" is unclear. For the purpose of examination [when the spraying device is in spraying or operating mode,] is assumed.

Claim 9, line 8, recites the limitation "the pump" in the claim. There is insufficient antecedent basis for this limitation in the claim. For the purpose of examination [the pumping means] is assumed.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Cooper (US 2003/0127542 A1).

As to claims 1-2, Cooper discloses (see Figs 2-3, 8) a spraying device, comprising: an upright structure (1002) having a nozzle support portion (wall); at least first and second spray nozzles (1004) being operatively attached to the nozzle support portion; means for operatively supplying (pumping device 100, 200) an associated fluid to the at least first and second spray nozzles; a spray nozzle controlling means (valves 214, 216) for use in selectively independently actuating the at least first and second spray nozzles respectively; and, wherein when the spraying device is in operation mode, the at least first spray nozzle is sequentially actuated with respect to the at least second spray nozzle (see figs 2-3 and paragraphs 31-32, 59 and 68)..

With respect to claim 3, in Cooper (see Fig 8) the enclosure is a modular booth having: a plurality of spray containing walls, a bottom booth portion and, a top booth portion.

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6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Parker et al (US 6,302,122). Parker et al discloses (see Figs 1 and 10) a spraying device, comprising: an upright structure (10) having a nozzle support portion (arm 50, 600); at least first and second spray nozzles (51, 601) being operatively attached to the nozzle support portion; means for operatively supplying (pump 86, 112, see column 14, line 65- column 15, line 28) an associated fluid to the at least first and second spray nozzles; a spray nozzle controlling means (controller unit 500) for use in selectively independently actuating the at least first and second spray nozzles respectively; and, wherein when the spraying device is in spraying mode, the at least first spray nozzle is sequentially actuated with respect to the at least second spray nozzle (see column 14, lines 9-16 and column 15, lines 27-33).

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Laughlin (US 6,416,747). Laughlin discloses (see Figs 9, 11 and 15) a spraying device, comprising: an upright structure (chamber 32) having a nozzle support portion (36); at least first and second spray nozzles (140) being operatively attached to the nozzle support portion; means for operatively supplying (lines 142,144) an associated fluid to the at least first and second spray nozzles; a spray nozzle controlling means (valves 146,148) for use in selectively independently actuating the at least first and second spray nozzles respectively; and, wherein when the spraying device is in spraying or operating mode, the at least first spray nozzle is sequentially actuated with respect to the at least second spray nozzle (see column 17, lines 44-57).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (US 2003/0127542 A1 as applied to 2 above and further in view of DE 4325971 or FR 2725362A.

As to claims 4-5, Cooper discloses a first bank of spray nozzles (1004) fixedly attached to the wall member (see Fig 8). However, Cooper lacks teaching a second bank of spray nozzles. DE'542 or FR'362 discloses a second bank of nozzle attached to the wall (see Fig 1 each). It would have been obvious to one of ordinary skill in the

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art at the time the invention was made to include a second banks of spray nozzles in Cooper to apply the coating material in both sides of the human body.

As to claim 6, in Cooper (see Figs 2-3) the means for operatively supplying an associated fluid comprises: pumping means (100,200) for use in conveying the associated fluid to the at least first and second banks of spray nozzles; and, at least a first reservoir (201) operatively connected to the pumping means.

With respect to claims 7-8, in Cooper a shut-off valve (132) operatively communicated between the at least a first reservoir (201) and the at least first spray nozzle (204).

As to claim 9, in Cooper (see Figs 2-4) the shut-off valve is a check valve conduit for use in channeling the associated fluid, the conduit being operatively connected to the pumping means and the at least first and second spray nozzles; wherein the pumping means is a mechanical pump that continuously cycles the associated fluid; and, further comprising: a bypass valve (214) for use in selectively channeling the associated fluid, the bypass valve being operatively communicated between the pumping means and the at least first and second spray nozzles.

With respect to claim 10, in Cooper least a second reservoir (202) operatively connected to the pumping means.

11. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 4325971 or FR 2725362A in view of Cooper (US 2003/0127542 A1).

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DE'971 discloses (see Fig 1) a spraying device, comprising: an upright structure (10) having a nozzle support portion (wall); at least first and second spray nozzles (48) being operatively attached to the nozzle support portion; means for operatively supplying (56) an associated fluid to the at least first and second banks of spray nozzles. FR'362 also discloses (see Figs 1 and 3) a spraying device, comprising: an upright structure (10) having a nozzle support portion (14); at least first and second spray nozzles (28) being operatively attached to the nozzle support portion. However a spray nozzle controlling means for use in selectively independently actuating the at least first and second spray nozzles respectively comprising pumping means conduits bypass valves and a shut-off valve as claimed is not taught in DE'971 and FR'362. Cooper is cited for the same reasons described above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a spray nozzle controlling means for use in selectively independently actuating the at least first and second spray nozzles respectively comprising pumping means conduits bypass valves and a shut-off valve as claimed to uniformly apply the coating material and reduce waste as taught by Cooper (see paragraph 13).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T. Tadesse whose telephone number is (571) 272-1238. The examiner can normally be reached on Monday-Friday 8:00 AM - 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to be 'YTT' followed by a stylized flourish.

YTT